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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,650	12/20/2001	Anton C. Rothwell	NAI1P056/01.187.01	2721

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EXAMINER

CHEA, PHILIP J

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/028,650

Applicant(s)

ROTHWELL ET AL.

Examiner

Philip J. Chea

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-31,33,34.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

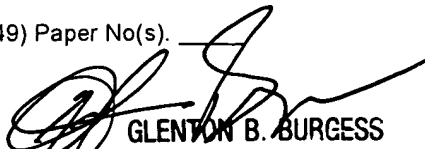
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attached.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


GLENON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Response to Arguments

Applicant's arguments filed October 13, 2005 have been fully considered but they are not persuasive.

- (A) Applicant contends that it would not have been obvious to combine the teachings of the Nessett, Reid, and Kephart references.
- (B) Applicant contends that it would not have been obvious to store signature files on a non-volatile solid state memory on the network adapter.
- (C) Applicant contends that filtering rules taught by Nessett does not meet applicant's specific claim language of "the manner in which scanning is performed".
- (D) Applicant submits that Examiner has failed to consider the full weight of applicant's claim language. Applicant claims "scanning received packets that are of interest, and not simply scanning received packets to determine if they are of interest."

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(E) Applicant contends that managing security policy data for the operation of security systems does not meet any sort of content scanning that enforces operational policies in an organization.

In considering (A), the Examiner respectfully disagrees. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is shown by Reid that firewalls are known to scan for viruses and alert the system administrator and quarantine the virus. Kephart shows that it is old and well known to utilize virus signatures when scanning for viruses. Now, since Nessett, shows a firewall placed on a Network Interface Card, it would have been obvious to carry over the known functionality of firewalls taught by Reid and the old and well known practice of using signature files to scan for viruses and implement them on a firewall that is located on a Network Interface Card, such as disclosed by Nessett.

In considering (B), the Examiner respectfully disagrees. The Examiner believes that a Network Interface Card with a firewall possessing virus scanning capabilities is obvious for the reasons mentioned above. Nessett shows configuration data being stored on non-volatile memory in the device (read NIC) itself. It would have been obvious to store the virus signature files along with the configuration data in the non-volatile memory in order to program the device and keep signature files updated with configuration data.

In considering (C), the Examiner respectfully disagrees. The claim language is broad enough where setting filtering rules can read on the manner in which scanning is performed is capable of being configured. By setting filtering rules, you are telling the firewall to scan for different types of data and allow or deny access based on the scanning of the packet. Further, the claim is unclear as to what manner the scanning is configured by the user. The Examiner invites the Applicant to elaborate the manner in which the scanning is performed.

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In considering (D), the Examiner would like to point out that the system combining Nessett in view of Reid in view of Kephart would allow one of ordinary skill in the art to see that a firewall embedded on a NIC, additionally containing a virus scanner would imply scanning packets that are of interest in order to quarantine the infected data and alert an administrator.

In considering (E), the Examiner respectfully disagrees. It is unclear what the Applicant specifically means by content. The Examiner is taking the broadest interpretation of the claim and using content to mean the entire packet, including the header and payload. In this case, Nessett must access the header in order to get to the address. By changing filtering rules according to security policy management, Nessett shows that altering what is allowed or denied access through the firewall can change operational policies.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Chea whose telephone number is 571-272-3951. The examiner can normally be reached on M-F 7:00-4:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip J Chea
Examiner
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